

August 17, 1998

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

850 Union Bank of California Building
900 Fourth Avenue
Seattle, Washington 98164
Telephone (206) 296-4660
Facsimile (206) 296-1654

REPORT AND DECISION ON APPLICATION FOR PRELIMINARY PLAT APPROVAL

SUBJECT: Department of Development and Environmental Services File No. **L97P0031**

NORTH CAMDEN
Preliminary Plat Application

Location: Lying approximately ¼ mile east of 244th Avenue Northeast, north of
NE 24th Street (if extended), and south of Northeast 27th Place (if extended)

Applicant: Clark Emerson, Emerson & Associates, *represented by*
Darrell S. Mitsunaga, Attorney At Law, Reed McClure
701 Fifth Avenue #3600, Seattle, WA 98104-7081

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve, Subject to Conditions
Department's Final:	Approve, Subject to Conditions (modified)
Examiner:	Approve, Subject to Conditions (modified)

PRELIMINARY MATTERS:

Application or petition submitted:	July 31, 1997
Notice of complete application:	July 31, 1997

EXAMINER PROCEEDINGS:

Hearing Opened:	July 30, 1998
Hearing Closed:	July 30, 1998

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.

A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.
ISSUES ADDRESSED:

- Open space
- Slopes
- Signs
- Drainage
- Flood plain
- Flooding
- Downstream impacts
- Geotechnical (slope stability)

FINDINGS, CONCLUSIONS DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. **General Information.**

Owner/Developer: Emmerson & Associates, Inc., P.O. Box 1976, White Salmon, WA 98672
Engineer: Hugh Goldsmith & Associates, Inc., P.O. Box 3565, Bellevue, WA 98009
Location: Lying approximately ¼ mile east of 244th Avenue NE, north of NE 24th Street (if extended) and south of NE 27th Place (if extended)
STR: 23-25-6
Zoning: R4-P and RA5-P
Acreage: 32.8
Number of Lots: 26
Density: 3.94 dwelling units per acre
Typical Lot Size: Ranges from approximately 6,600 to 7,700 square feet
Proposed Use: Detached single-family residences
Sewage Disposal: Sammamish Plateau Water and Sewer District
Water Supply: Sammamish Plateau Water and Sewer District
Fire District: King County Fire District #34
School District: Snoqualmie Valley School District No. 410
Complete Application Date: July 31, 1997

2. **Proposal.** Emerson & Associates, represented by the engineering firm of Hugh Goldsmith & Associates (together and separately referred to here as “the Applicant”) propose to subdivide a 32.8 acre parcel into 26 single-family residential building lots. Because the lots range from only 6,600 to 7,700 square feet, this density is achieved by leaving a 26.2-acre undeveloped open space area as required by open space set-aside requirements contained in the RA5 zoning classification.
3. **SEPA.** On June 2, 1998, the Department issued a threshold determination of nonsignificance for the proposed development. That is, the Department published its determination that, based upon its review of relevant environmental documents, the proposal would not cause probable significant adverse impacts upon the environment; and that, therefore, an environmental impact statement would not be required. No person, agency or tribe appealed that determination. The Department’s environmental review is incorporated in this hearing record. See, particularly, exhibit no. 5.
4. **Department Recommendation.** In its preliminary report to the Hearing Examiner dated July 30, 1998, the Department of Development and Environmental Services recommended granting a

preliminary approval to the proposed subdivision, subject to the twenty-two conditions of final plat approval stated on Pages 9 through 12 of that report. The Department's recommendation remains principally the same, except for these modifications:

- A. Drainage Variance Requirement. The Department deletes the requirement for drainage variance approval as stated in the first paragraph of its recommendations on page 9 of its July 30, 1998 report.
 - B. Notice To Patterson Creek Flood Control District. The Department agrees that Mr. William Harper, representing the Patterson Creek Flood Control District, should be notified when the Applicant submits its engineering plans for review and should be given an opportunity to review and comment on those plans. However, the Department prefers to place the onus of that notification on the Applicant.
 - C. Steep Slopes Signage. The Department agrees with the Applicant's request not to require "sensitive areas" signage below the top of steep slopes. The Department also agrees that the sensitive areas tract should be shown on the final recorded plat "based upon information already provided by the Applicant as of the date of the preliminary plat approval. See recommended condition no. 16 on page 7 of this report.
5. **Applicant's Position.** The Applicant accepts the Department's recommendation as described in finding no. 4, above.
 6. **Patterson Creek Flood Control District.** William Harper, representing the Patterson Creek Flood Control District, has expressed a number of questions and concerns regarding the proposed development. It appears from the hearing testimony that all of the most salient concerns have been addressed or will be addressed through technical engineering review. Consequently, Mr. Harper requests an opportunity to review the drainage plans, particularly as they may affect the interests of the Patterson Creek Flood Control District, and to comment upon those plans as appropriate. The Applicant agrees to provide copies of the drainage engineering plans at the time they are submitted to the Department for review. The Department has indicated that it will consider any comments or concerns which may be expressed by Mr. Harper or the District.
 7. **Drainage Variance.** The proposed project might require a drainage variance. The conceptual drainage plan, if such a variance is approved, would result in a "sag" in the high-density seamless polyethylene ("Drisco") pipe which would carry downstream drainage over steep slopes. The Water and Land Resources Division has indicated that it is willing to approve the variance. (Hence, finding 4.A, above.) However, the long-term management of a sagged drainage line may be more bothersome than another feasible alternative which would require boring through the elevational rise which necessitates the pipeline sag. With both alternatives feasible, the Applicant wants to explore these alternatives further before preparing final drainage engineering plans.
 8. **Public Participation.** No person, agency or tribe expressed opposition or concern other than the Patterson Creek Flood Control District. Other than the Department, the District, and the Applicant, no other person agency or tribe appeared at the hearing.

9. **Department Report Adopted.** Except as noted above, the facts and analysis contained in the Land Use Services Division Preliminary Report dated July 30, 1998, are correct and are incorporated here by reference. A copy of the Department of Development and Environmental Services preliminary report will be attached to any copies of the examiner's report which are submitted to the King County Council.

CONCLUSIONS:

1. If approved subject to the conditions set forth below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, East Sammamish Community Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
2. If approved subject to the conditions set forth below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreations, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
3. The conditions for final plat approval set forth below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as required by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the Applicant, are reasonable and necessary as a direct result of the development of this proposed plat.

DECISION:

PRELIMINARY APPROVAL is GRANTED; SUBJECT to the conditions of final plat approval set forth below:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and minimum density requirements of the R-4 zone classification. All lots shall also meet the minimum dimensional requirements of the R-4 zone classification and shall be generally as shown on the face of the approved preliminary plat, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services (DDES).
4. The Applicant must obtain final approval from the King County Health Department.

5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards, established and adopted by Ordinance No. 11187.
6. The Applicant must obtain the approval of the King County Fire Protection Engineer, regarding the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with drainage provisions set forth in King County Code 9.04 and the storm drainage requirements and guidelines as established by the Water and Land Resources Division. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. The following conditions represent portions of the Code and requirements, which apply to all plats.
 - A. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and updates which were adopted by Public Rule effective January 1, 1995. LUSD approval of the drainage and roadway plans is required prior to any construction.
 - B. Current standard plan notes and ESC notes, as established by LUSD Engineering Review, shall be shown on the engineering plans.
 - C. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file."
8. The stormwater detention design shall comply with the King County Runoff Time Series (KCRTS) Level 2 methodology or equivalent, plus a volumetric safety factor of between 10 percent and 20 percent at the design engineer's discretion. The design Technical Information Report shall state the factor of safety selected and the basis of that determination. The KCRTS Level 2 standard requires maintaining the duration of flows at their pre-developed levels for all flows greater than one-half of the 2-year storm up to the 50-year storm.

The detention facility shall be sized to include the approximate east one-half of the existing subdivision of Hecate Hill. An existing temporary detention facility for this portion of Hecate Hill is to be abandoned, per Note 6, Sheet 2, of the recorded plat of Hecate Hill.
9. A stormwater conveyance line (HDPP) is required to be constructed from the top of the steep slopes on the site to the toe of the slope. The conveyance line shall be designed as surface pipe with minimum slope disturbance and sufficiently durable to withstand slope movements. The pipe shall

be constructed in the first phase of TESC construction to provide for stormwater conveyance. Plans for the construction of this line shall be submitted at engineering plan submittal and shall show the proposed construction access to the lower slope section and describe how construction materials for the energy dissipater will be delivered to the base of slope. In addition, the plans shall provide details for revegetation and erosion control for any areas disturbed during construction. The revegetation and erosion control plan shall restore the function of the original vegetation and forest duff soils and shall be reviewed by the geotechnical consultant to confirm that no adverse erosion impacts will occur as a result of construction. The discharge shall be to a non-erodible location and include energy dissipation provisions. The outfall structure shall be placed outside of any delineated wetlands at the base of slope. The Applicant's geotechnical consultant shall review and approve the design, prior to engineering plan submittal. DDES geologist and senior ecologist as part of the engineering plan approval shall also review the plans.

10. Drainage Variance L98V0073 has been submitted in connection with the design for the stormwater conveyance line on the steep slopes on the site. All conditions of approval of the variance shall be reflected in the design shown on the engineering plans, at the time of engineering plan submittal.
11. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council, prior to final plat recording.
12. The Applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The Applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
13. Lots within this subdivision are subject to KCC 21A.43 and Ordinance 12928 which imposed impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
14. The proposed subdivision shall comply with the following road improvement requirements:
 - A. The on-site streets (NE 24th St., NE 25th St., NE 25th Pl., 248th Ave. NE, and 248th Ct. NE) shall be improved to the sub-access street standard.
 - B. The off-site, unpaved portion of NE 24th St. shall be improved to the full-width, sub-access street standard. Right-of-way shall be deeded to King County for this portion of NE 24th St.
 - C. Modifications to the above road conditions may be considered by King County, pursuant to the variance procedures in KCRS 1.08.

15. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE AREAS
AND BUFFERS**

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

16. The proposed subdivision shall comply with the sensitive area requirements as outlined in KCC 21A.24. Permanent survey marking and signs, as specified in KCC 21A.24.160, shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed. See also finding 4.C.
17. Preliminary plat review has identified the following issues which apply to this project. All other applicable requirements for sensitive areas shall also be addressed by the Applicant.
- A. Determine the top, toe, and sides of 40% slopes by field survey. Provide a 50-foot buffer from these slopes.
 - B. The Applicant shall delineate all erosion hazard areas on the final engineering plans, where improvements are planned. (Erosion hazard areas are defined in KCC 21A.06.415.) The delineation of such areas shall be approved by an LUSD senior geologist. The requirements found in KCC 21A.24.220 concerning erosion hazard areas shall be met, including seasonal

restrictions on clearing and grading activities. The seasonal restrictions shall be clearly shown on the final engineering plans.

- C. The proposed stormwater retention/detention facility shall be lined in accordance with the geotechnical engineer's recommendation. The purpose of the lining is to reduce potential adverse impacts to the slope from concentration of groundwater.
- D. Buffers shall be provided from the on-site wetlands and streams, consistent with KCC 21A.24. Note that the wetland on the upper portion of the site, in Tracts C and F, is a Class 2 wetland and thus requires a 50 foot buffer. The outlet stream from this wetland is a Class 3 stream, requiring a 25 foot buffer on each side of the stream. Patterson Creek is a Class 2 stream with salmonids, requiring a 100 buffer from the stream, and the wetlands on-site, adjoining Patterson Creek, are Class 2 wetlands, requiring a 50 foot buffer.
- E. Wetlands, streams, steep slopes, and their buffers, which are located on the site, shall be placed in a Sensitive Areas Tract (SAT).

None of these conditions are to be construed as requiring the Applicant to provide additional survey, investigation or research results not already available as of the date of this Examiner's Report and Decision.

- 18. Suitable recreation space shall be provided, consistent with the requirements of KCC 21A.14.180 and 21A.14.190. A recreation space improvement plan shall be reviewed and approved by LUSD and the King County Parks Division, prior to engineering plan approval.
- 19. A homeowners' association or other workable organization shall be established to the satisfaction of LUSD which provides for the ownership and continued maintenance of the recreation and open space areas, except Tract F. Tract F shall be dedicated to King County, and shall be labeled as either open space, or an SAT where sensitive areas are present. Utility easements may cross Tract F, where determined appropriate by LUSD.
- 20. As volunteered by the Applicant to mitigate the subject plat's impacts on SR 202, a pro-rata share payment of \$42,874.00 shall be made to WSDOT, to be applied towards the cost of future planned road improvements on this roadway.
- 21. To implement East Sammamish P Suffix Condition ESP-P22, clearing and grading of the RA5 zoned portion of the site (Tract F as shown on the preliminary plat map) shall be limited to 35% of this portion of the property.
- 22. Landscaping, including coniferous trees, shall be provided around the perimeter of stormwater R/D ponds and bio-swales developed in Tract F, to implement East Sammamish P Suffix Condition ESP-P32 (also see Comprehensive Plan Policy I-204p, page 219, K.C. Comprehensive Plan). A landscape plan shall be submitted with the engineering plans to implement this requirement. LUSD may require bonding to assure the planting and survival of the required landscaping.

23. At the same time that the engineering drainage plans are submitted to the Department of Development and Environmental Services for engineering review and approval, the Applicant shall also submit those same plans to the Patterson Creek Flood Control District or to that District's representative, Mr. William Harper (known to be the District's representative at the time of the plat hearing).

ORDERED this 17th day of August, 1998.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 17th day of August, 1998, to the parties and interested persons shown on the attached list.

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) **on or before August 31, 1998**. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council **on or before September 8, 1998**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the Hearing Examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE JULY 30, 1998 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT & ENVIRONMENTAL SERVICES FILE NO. L97P0031 – NORTH CAMDEN:

R.S. Titus was the Hearing Examiner in this matter. Participating in the hearing were Lanny Henoeh, Bruce Whittaker, Steve Bottheim, Keith Goldsmith, Clark Emmerson, Darrell Mitsunaga, and William Harper.

The following exhibits were offered and entered into the record:

Exhibit No. 1 Department of Development and Environmental Services File No. L97P0031

- Exhibit No. 2 Department of Development and Environmental Services Preliminary Report to the Hearing Examiner for the July 30, 1998 public hearing
- Exhibit No. 3 Applicant's application, received July 31, 1997
- Exhibit No. 4 Environmental Checklist, signed July 31, 1997, including a "Wetland Evaluation" prepared by Terra Associates, Inc., dated November 30, 1995, as an attachment
- Exhibit No. 5 Corrected SEPA Determination of Nonsignificance, issued June 2, 1998
- Exhibit No. 6 Affidavit of Posting, received July 15, 1998, indicating property was posted on July 10, 1998 with a sign giving notice of public hearing
- Exhibit No. 7 Revised preliminary plat map, received July 26, 1998
- Exhibit No. 8 January 13, 1998 document from Hugh G. Goldsmith & Associates, Inc., labeled in the regards line "...Request for Additional Information Response to Screening," which contains a number of items including the following two reports: 1) "Revised North Camden Traffic Impact Analysis" prepared by Transportation Planning & Engineering, Inc., dated December 3, 1997 and 2) "Preliminary Geotechnical Report" prepared by Terra Associates, Inc., dated January 7, 1998
- Exhibit No. 9 Land Use Map – Kroll Maps 948E, 948W, 952E and 952W
- Exhibit No. 10 King County Assessor Map SW ¼ of 23-25-06
- Exhibit No. 11 "Site sub-basin/Conceptual Drainage Plan," Hugh G. Goldsmith & Associates, Inc., received May 20, 1998
- Exhibit No. 12 "Preliminary Outfall Design North Camden," Hugh G. Goldsmith & Associates, Inc., received May 20, 1998
- Exhibit No. 13 "Topographic Survey...", Hugh G. Goldsmith & Associates, Inc., received May 20, 1998
- Exhibit No. 14 Drainage Variance Application L98V0073
- Exhibit No. 15 E-mail dated July 22, 1998 from Richard Lowe to Bruce Whittaker re: SWM Variance L98V0073
- Exhibit No. 16 Applicant's proposed amendments to Staff's recommended conditions 16 and 17(d) and 17(e)